

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)
)
Plaintiff,) Civil Action No. 19-cv-12736
) Hon. Nancy G. Edmunds
v.)
)
)
CITY OF TROY, MICHIGAN)
)
Defendant.)

and

ADAM COMMUNITY CENTER, a)
domestic nonprofit corporation,)
)
Plaintiff,) Civil Action No. 18-cv-13481
) Hon. Nancy G. Edmunds
v.)
)
CITY OF TROY, a Municipal)
corporation, et al.,)
)
Defendants.)

SECOND JOINT UNOPPOSED MOTION TO EXTEND SCHEDULE

Plaintiff United States of America and Defendant City of Troy, Michigan, through undersigned counsel, move under Fed. R. Civ. P. 6(b) and 16(b)(4) for an order modifying the discovery schedule, ECF No. 26 in Case No. 19-cv-12736 and ECF No. 48 in Case No. 18-cv-13481, to extend deadlines by sixty (60) days.

Consistent with E. D. Mich. LR 7.1(a), the United States and the City of Troy sought and received concurrence from Plaintiff Adam Community Center and Defendant Glenn Clark, who do not oppose this motion. In support of this motion, the United States and the City of Troy state the following:

1. On April 16, 2020, the Court granted the United States' and City of Troy's first Joint Motion to Extend Schedule, ECF No. 26 in Case No. 19-cv-12736 and ECF No. 48 in Case No. 18-cv-13481, and issued a scheduling order reflecting the following deadlines:

- **Witness Lists Exchanged By:** July 10, 2020
- **Discovery Cutoff:** August 14, 2020
- **Dispositive Motions Filed By:** September 25, 2020
- **Final Pretrial Order Due:** January 7, 2021
- **Final Pretrial Conference:** January 14, 2021 @ 2:00 pm
- **Trial Date:** February 2, 2021 @ 9:00 am

2. The United States and the City of Troy additionally agreed to abide by two internal deadlines to ensure that the Parties completed non-expert fact discovery prior to producing expert reports and had time remaining before the Court's discovery cutoff to depose experts after receiving their reports. *See, e.g.*, ECF No. 25 in Case No. 19-cv-12736. Specifically, the United States and the City

of Troy stipulated to a non-expert fact discovery cutoff deadline of June 12, 2020, and to an expert report deadline of July 3, 2020. *See, id.*

3. As previously stated in the first Joint Motion to Extend, counsel for the United States intends to travel from Washington, D.C., and Detroit, Michigan, to conduct in-person depositions in Troy, Michigan, which would also be attended by, at minimum, the deponent, counsel for Troy, and a stenographer.

4. Recent circumstances related to the spread of coronavirus or COVID-19 have limited the Parties' ability to conduct such in person depositions in a timely manner. On March 13, 2020, the President declared the COVID-19 pandemic a national emergency,¹ and on March 16, 2020, the President issued Coronavirus Guidelines for America that directed Americans to follow directions from state and local authorities.² On May 7, 2020, Michigan Governor Gretchen Whitmer issued Executive Order 2020-77, which extended Michigan's stay-at-home order through May 28, 2020, and recognized that "[t]o suppress the spread of COVID-19 ... it is reasonable and necessary to direct residents to remain at home

¹ See <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-conference-3/> (accessed May 15, 2020).

² See https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf (accessed May 15, 2020).

or in their place of residence to the maximum extent feasible.”³ Also on May 7, 2020, Governor Whitmer announced a six phased plan for a partial and incremental reopening.⁴ On May 13, 2020, Washington, D.C. Mayor Muriel Bowser issued Mayor’s Order 2020-066, which extended Washington, D.C.’s stay-at-home order through June 8, 2020, and included benchmarks for a phased reopening.⁵ This Court has additionally implemented a number of restrictions in effect until further order of the Court.⁶ On March 27, 2020, this Court announced that “[t]he courthouse will remain closed indefinitely” after multiple court security officers exhibited symptoms or were diagnosed with COVID-19.⁷

5. There is good cause for the United States’ and City of Troy’s request for an extension of schedule. Based on the current stay at home orders in effect in Michigan and Washington, D.C., the United States and the City of Troy anticipate significant difficulty traveling to and meeting for depositions within the time frame allowed by the current schedule. To the extent that deadlines relating to depositions

³ See

https://content.govdelivery.com/attachments/MIEOG/2020/05/07/file_attachments/1446124/EO%202020-77.pdf (accessed May 15, 2020).

⁴ See <https://www.michigan.gov/coronavirus/0,9753,7-406-98163-528453--.00.html> (accessed May 15, 2020).

⁵ See <https://mayor.dc.gov/node/1477371> (accessed May 15, 2020).

⁶ See, e.g., <https://www.mied.uscourts.gov/index.cfm?pageFunction=covidInfo> (accessed May 15, 2020).

⁷ See <http://www.mied.uscourts.gov/pdffiles/NewsAdvisory032720.pdf> (accessed May 15, 2020).

are extended, such extensions will impact the Parties' ability to comply with the other deadlines, including those deadlines for which any extension requires a Court order.

6. For these reasons, the United States and the City of Troy, with the consent of Adam Community Center and Glenn Clark, request that the Court extend the relevant deadlines by sixty (60) days to the following dates:

- **Witness Lists Exchanged By:** September 10, 2020
- **Discovery Cutoff:** October 14, 2020
- **Dispositive Motions Filed By:** November 25, 2020
- **Final Pretrial Order Due:** March 8, 2021
- **Final Pretrial Conference:** TBD
- **Trial Date:** TBD

The Parties in *United States v. City of Troy*, Civil Action No. 19-cv-12736, additionally agree to abide by the following, revised deadlines in the course of discovery:

- **Non-Expert Fact Discovery Cutoff:** August 12, 2020
- **Expert Reports Due:** September 3, 2020

A proposed order will be submitted separately to the Court.

Respectfully Submitted,

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Dated: May 19, 2020

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/s/ with consent of Allan Motzny

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Dated: May 19, 2020

CERTIFICATE OF SERVICE

I hereby certify that on May 19, 2020, I electronically filed the foregoing document, Joint Unopposed Motion to Extend Schedule, with the Clerk of Court using the ECF system, which will send notification of such filing to counsel of record for all parties. I additionally certify that on the same date I emailed the associated Proposed Order to all parties of record.

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